

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

OLIVIA RUX et al.,

Petitioners,

- against -

ABN-AMRO BANK N.V., et al.,

Respondents.

08 Civ. 6588 (AKH)

**DECLARATION OF
KIRSTI NIINISALO-SNOWDEN**

I, Kirsti Niinisalo-Snowden, declare as follows:

1. I am the Head of Legal Services and Compliance at Nordea Bank Finland Plc, ("Nordea"), at its branch in London, England. I have knowledge of the facts set forth in this declaration based on my review of the relevant records and am authorized to make this declaration on behalf of Nordea.

2. Nordea is a Finnish subsidiary of a Nordic or Scandinavian bank headquartered in Sweden. It is neither associated with nor owned or controlled in any part by the Government of Sudan ("Sudan") or any of its agencies or instrumentalities.

3. One of Nordea's customers is Barwil Agencies AS of Lysaker, Norway ("Barwil"), a Norwegian owned shipping agency with operations, officers and subsidiaries in various countries throughout the world. Barwil is indirectly wholly owned by Wilhelmsen Maritime Services AS ("WMS"), a fully owned subsidiary of Wilh. Wilhelmsen ASA, a public limited company listed on the Oslo Stock Exchange ("WW").

4. As explained in materials from the annual report and website of WW, WMS offers a broad range of products and services to a large proportion of the international merchant

fleet through a unique global network and also offers services to the shipbuilding industry, and WMS, hereunder Barwil is WW's global provider of port and marine services.

The \$300,000 Wire Transfer and the \$225,697.89 Wire Transfer

5. There are two wire transfers that Barwil initiated that were blocked in accordance with the United States Treasury Department's Office of Foreign Assets Control ("OFAC") regulations and are the subject of Nordea's submissions in this matter. They are:

- \$300,000 wire transfer dated October 12, 2001 (the "\$300,000 Wire Transfer"), pursuant to instructions from Mr. Dag-Erik OS of Barwil, for the ultimate benefit of Baasher Shipping and Trading, also known as Baasher Barwil Agencies Ltd. ("Baasher Barwil"). Baasher Barwil is owned 50% by Barwil. The originating bank was Merita Bank PLC London (a predecessor of Nordea), and the beneficiary bank was Bank of Khartoum, where Baasher Barwil maintained the account designated to receive the funds. (See Ex. A (SWIFT messages dated October 12, October 15, and November 2, 2001, identifying the wire transfer and confirming that it was blocked).)
- \$225,697.89 wire transfer dated March 25, 2008 (the "\$225,697.89 Wire Transfer"), pursuant to instructions from Barwil, for the ultimate benefit of Mr. Mohammed Abdalla Ahmed Baasher, a shareholder and director of Baasher Barwil ("Mr. Baasher"). The originating bank was Nordea, and the beneficiary bank was Bank of Khartoum, where Mr. Baasher maintained the account designated to receive the wired funds. (See Ex. B (SWIFT payment order message dated March 25, 2008 and SWIFT messages dated April 3, 2008 noting the blocking of the funds).)

6. As confirmed in the accompanying declaration of Barwil's Chairman of the Board, Ove Myrvaag, the \$300,000 Wire Transfer to Baasher Barwil was for working capital purposes.

7. As confirmed in Mr. Myrvaag's declaration and that of Mr. Baasher, the \$225,697.89 Wire Transfer was a dividend payment to Mr. Baasher as minority shareholder of Baasher Barwil.

8. As also confirmed in the accompanying declarations of Messrs. Myrvaag and Baasher, both the \$300,000 and the \$225,697.89 Wire Transfers were sent by and intended to be received by entities that were not and are not agencies or instrumentalities of Sudan.

The Blocking of the Wire Transfers

9. On March 25, 2008, JPMorgan Chase Bank, N.A. ("JPMC"), one of the Intermediary Banks for the \$225,697.89 Wire Transfer, informed Nordea via email that it had blocked transfer of the funds pursuant to the Sudanese Sanctions Regulations. JPMC also informed Nordea that it had sent an email report to OFAC on April 1, 2008 regarding the blocking of the funds.

10. I thereafter submitted an application, on behalf of Nordea, for release of the blocked \$225,697.89 Wire Transfer pursuant to OFAC policy. I explained that the funds represented a dividend payment to Mr. Baasher, a minority shareholder of Barwil, and that Nordea's client and remitter (Barwil) had mistakenly instructed that the funds be wired in U.S. dollars rather than Euros.

11. Nordea had previously initiated similar wire transfers of payments on behalf of Barwil/Baasher Barwil, but in Euros. Through what appears to be a mutual mistake by Nordea and its customer, the funds that are the subject of the \$225,697.89 Wire Transfer were mistakenly transmitted in U.S. dollars instead of Euros, as had been prior practice. Accordingly, it appears that that wire transfer was blocked simply because it was mistakenly wired in U.S. dollars.

12. After receiving an April 30, 2008 letter from OFAC advising that they did not have a record of the \$225,697.89 Wire Transfer being blocked, I sent a letter on June 10, 2008 to OFAC's Licensing Division explaining that JPMC had blocked the \$225,697.89 Wire Transfer

on March 25, 2008, and had so informed OFAC by email. In the June 10, 2008 letter I also resubmitted Nordea's prior application for release of the blocked \$225,697.89 Wire Transfer.

13. By identical letters dated June 12 and June 25, 2008 (responding to my two prior communications on behalf of Nordea), OFAC denied Nordea's application for release of the blocked \$225,697.89 Wire Transfer "at this time" and without prejudice to renewal.

14. To the best of my knowledge, Nordea has not made any application to OFAC for a license with respect to the \$300,000 Wire Transfer, the full details of which only came to my attention as in-house counsel for Nordea after the \$225,697.89 Wire Transfer. Nevertheless, Nordea intends to make such application at the appropriate time.

15. Nordea also intends to make a renewed application to OFAC for a license with respect to the \$225,697.89 Wire Transfer.

Conclusion

16. The subject funds are not property of Sudan that could be subject to attachment for purposes of satisfying the judgment obtained against Sudan by the above-named Petitioners in this proceeding.

WHEREFORE, Nordea respectfully requests that the Court determine that the subject wire transfers are not property of Sudan (or any agency or instrumentality thereof), so that those funds (including accumulated interest thereon) may be returned to JPMC, and Nordea, on behalf of Barwil, may pursue the unblocking and retrieval of those funds.

A

30-OCT-2008 17:45 FROM NORDEA BANK PLC

TO 90012127151399

P.08

01

Matched Ledger/Statement Items

12:14:16

Reconciliation Reference: USD02

CHASE MANHATTAN BANK New York

Currency: USD

Type options, press Enter.

5=Display

Value

Date

12OCT01

Amount

300,000.00 C

S/L Our Reference

L 200110129NO

Their Reference

200110129NO

12OCT01

300,000.00 D

S NONREF

Notes:

R-076180028511

Notes:

F3=Exit F12=Return

(c) Copyright Software AS Limited. 1993

30-OCT-2008 17:45 FROM NORDEA BANK PLC

TO 90012127151399

P.09

01

0:

CHASUS33XXX

MT100 - Customer Transfer Enquiry
CHASE MANHATTAN BANK, N.A.
NEW YORK, NY

12:14:56

:20:

Transaction Reference (TRN)

200110129NO

Priority: N

:32:

Date: 121001 Ccy: USD Amount:

300,000.00

:50:

Ordering Customer

BARWIL AGENCIES AS

BARWIL AS

:52:

Ordering Institution

A/c.

A or D

:53:

Senders Correspondent Bank

A/c.

A, B or D

:54:

Receivers Correspondent Bank A/c.

A, B or D

ENTER-Validate F1=Continue F3=Exit F11=Cancel
(c) Copyright Software AS Limited, 1999.

30-OCT-2008 17:46 FROM NORDEA BANK PLC

TO 90012127151399

P.10

10

:0:

CHASUS33XXX

MT100 - Customer Transfer Enquiry
CHASE MANHATTAN BANK, N.A.
NEW YORK, NY

Usually paid to 12:17:53

:56:

A Intermediary bank

A/c. BOFAUS3NXXX

paid to London

A or D

BANK OF AMERICA, N.A.

:57:

Display Inward Instruction

From: 0000200024 Type: MT100

BARWIL AGENCIES A.S.

OSLO

:59:

BARWIL AS

52A: ORDERING INSTITUTION

WRITGB2LXXX

:70:

MERITA BANK PLC.

LONDON

57A: ACCOUNT WITH INSTITUTION

BAKHSDK1

:71:

59: BENEFICIARY CUSTOMER

/60007

F3=Exit

EN

BAKHSDKHXXX

/60007

BASHER SHIPPING AND TRADING CO. LTD.

INSTRUCTIONS FM MR. DAG-ERIK OS.

OUR

11=Cancel F12=Previous screen

30-OCT-2008 17:46 FROM NORDEA BANK PLC TO 90012127151399
MIDLV CUSTOMER TRANSFER ENQUIRY

P.11

16:45:06 //

10: ① MIDLGB22XXX HSEC BANK PLC (FORMERLY MIDLAND BAN
LONDON56: _ Intermediary bank
A or D

A/c.

57: D Account with Bank
A,B,D or //SC etc.

A/c. ② BAKHSDKH

59: Beneficiary Customer

A/c. /60007

BAASHER SHIPPING AND TRADING CO
PORT SUDAN

70: Details of Payment

PORT D/A S VARIOUS VESSELS

71: Charge

(BEN/OUR)

BEN

ENTER-Validate F1=Continue F3=Exit F11=Cancel F12=Previous screen

30-OCT-2008 17:45 FROM NORDEA BANK PLC

TO 90012127151399

P.07

Date/Time: 15OCT01 / 8:22:56 Message RECEIVED in from SWIFT

System Name: *** AQUA Intercept 2.0 ***
 Department: CUST. QUERIES
 Message Type: MT199 Free Format Messages
 From: CHASUS33XXX

CHASE MANHATTAN BANK, N.A.
 NEW YORK, NY

Priority: N
 Queue: Current Unprocessed
 ISN: 3836350

1: F21MRITGB2LAXXX2996294961 4: (177:0110150754) (451:0) 1: F01MRITGB2LAXXX2996
 4961 2: 01991618011012CHASUS33CXXX70078187470110150752N 4:

Transaction Reference
 CMB4824-12OCT01

Related Reference
 5512900285JS

Narrative

PLEASE REFER TO YOUR SWIFT PAYMENT ORDER
 DATED 10/12/01 DATED 10/12/01 FOR USD 300,000.00
 VALUE 10/12/01 PLEASE BE ADVISED CHASE IS
 REQUIRED UNDER THE U.S. TREASURY DEPT. ASSET
 CONTROL REGULATIONS TO HOLD THE USD 300,000.00
 DUE TO THE REFERENCE BANK OF KHARTOUM, HEAD
 OFFICE, KHARTOUM, SUDAN THIS REFERENCE MAY BE
 ASSOCIATED WITH .SUDAN
 SANCTIONS, IT APPEARS ON A DESIGNATED BLOCK LIST
 PROVIDED BY THE U.S. TREASURY'S OFFICE OF FOREIGN
 ASSETS CONTROL. THE FUNDS ARE NOW IN A CHASE
 BLOCKED ACCOUNT. CHASE CANNOT RELEASE THE FUNDS
 TO THE BENEFICIARY NOR CAN WE RETURN FUNDS BACK
 TO YOU UNLESS YOU OBTAIN A LICENSE FROM THE
 TREASURY OFFICE. IN ORDER TO OBTAIN THIS LICENSE
 YOU SHOULD APPLY TO THE FOLLOWING ADDRESS.
 OFFICE OF THE FOREIGN ASSETS CONTROL U.S.
 DEPARTMENT OF THE TREASURY 1500 PENNSYLVANIA
 AVENUE N.W. WASHINGTON, D.C. 20220 ATTENTION MR.
 RICHARD NEWCOMB TELEPHONE NO. (202) 622-2500
 HOPING THIS WILL ASSIST YOU IN THIS MATTER
 REGARDS, CHASE MANHATTAN BANK NORBERTO BONGA OUR
 REFERENCE CMB4824-12OCT01.

-) (5: (MAC: 8F0B4BC) (CHK: B9D170979929) (DLM:)) (S: (SAC:)) (COP: P))

200110129NO

A

30-OCT-2008 17:47 FROM NORDEA BANK PLC

TO 90012127151399

P.16

16

Date/Time: 02NOV01 / 7:27:20

Message RECEIVED in from SWIFT

System Name: *** AQUA Intercept 2.0 ***

Department: CUST QUERIES

Message Type: MT199 Free Format Messages

From: CHASUS33XXX

CHASE MANHATTAN BANK, N.A.
NEW YORK, NY

Priority: N

Queue: Current Unprocessed

ISN: 3890979

(1:F21MRITGB2LAXXX3029317288) (4:(177:0111020700) (451:0)) (1:F01MRITGB2LAXXX3029317288) (2:01991609011101CHASUS33CXX70113137160111020659N) (4;

:20: Transaction Reference
CMB4824-12OCT01

:21: Related Reference
200110129NO

:79: Narrative

ATTN S. BADGER PLEASE REFER TO YOUR
200110129NO USD 300000.00 VALUE
12-OCT-01 AS ALREADY STATED IN OUR SWIFT MESSAGE
TO YOURSELVES. WE ARE REQUIRED UNDER THE U.S.
TREASURY DEPT. ASSET CONTROL REGULATIONS, TO HOLD
THE USD 300,000.00, DUE TO THE REFERENCE BANK OF
KHARTOUM SUDAN, AS IT APPEARS IN THE SANCTIONS
BLOCK LIST PROVIDED BY THE U.S. TREASURY OFFICE.
UPON THE OCCURRENCE OF ANY FUTURE LIFTING OF OFAC
SANCTIONS/REGULATION, JP MORGAN CHASE IS REQUIRED
BY LAW TO FOLLOW THE INSTRUCTIONS OF OFAC, IN
CASE OF THE RELEASE OF THE FUNDS. JP MORGAN CHASE
CAN THEREFORE NOT GUARANTEE THAT FUNDS WILL
RETURNED TO NORDEA, LONDON GIVEN THE ABOVE. WE
CAN CONFIRM RECEIVING YOUR MT299 CANCELLATION
MESSAGE AND HAVE ATTACHED THE CANCELLATION
MESSAGE TO OUR CASE 4824-12OCT01, WHICH WILL BE
USEFUL FOR FUTURE REFERENCE IN THE CASE OF
SANCTIONS LIFTED AGAINST SUDAN. IF AND WHEN A
SANCTION IS LIFTED YOU MUST APPLY FOR A LICENSE,
AND INDICATE ON THE LICENSE THAT YOU WANT THE
FUNDS TO BE RETURNED TO MERITA BANK LONDON.
REGARDS, CHASE MANHATTAN BANK
JOHNETTE REID

FOR ALL CORRESPONDENCE PERTAINING TO
THIS CASE, PLEASE BE SURE TO QUOTE OUR
CHASE REF. CMB4824-12OCT01.

-15: (MAC: 3B7CE96) (CHK: C11127611554) (DLM:) (S: (SAC:) (COP: P))

hans.gulksen@barcl.co

B

3 To BAKHSDKHXXX + Session 1647 Isn 033755 P11. N del.
Ack date 080325 time 1548 lenght 338 MUR 7490339001MT103

20 20080325AVC
23B CRED
32A 080325USD 225.697,89
33B USD225697,89
50K /0050166208
BARWIL AGENCIES AS
BARWIL AS
53A CHASUS33XXX
54A BACHGB2LXXX
59 /60486
MOHAMMED ABDALLA AHMED BAASHER
0 INSTRUCTIONS FM BARMIL OSLO
71A BEN
71F USD0,
08 7490339001MT103

F17=Correct Search F14=Fax F9=Claims F19=VER-queue F21=Refers
=Exit F4=Show F5= Search next F6=- F7=- F8=+ F11=> F18=Print F22=Audit



02 To CHASUS33XXX + Session 1647 Isn 033756 Pri. N del.
Ack date 080325 time 1548 lenght 177 MUR 7490339002MT202

20 20080325AVC
21 20080325AVC
32A 080325USD
57A BACMGB2LXXX
58A BAKHSDKHXXX
108 7490339002MT202

225.697,89

F17=Correct Search

F9=Claims F19=VER-queue F21=Refers

=Exit F4=Show F5= Search next F6=- F7=- F8=+ F11=> F18=Print F22=Audit

Date/Time: 03APR08 / 11:38:54 Inward SWIFT Message

System Name: **AQUA Intercept 2.0**

Department: K-LINK

Message Type: MT100 Customer Transfer

From: 0000200024

BARWIL AGENCIES A.S.

OSLO

Priority: N

Queue: Archived Processed

ISN: 7490339

Message received on on 25MAR08 at 11:55:33

1:FOJNDEAGB2LBXXX0000.ISN.112:1100000000000000200024 N14:

20: Transaction Reference

0742335

32A: Value Date/Currency/Amount

080325 USD

225,697.89

40: Ordering Customer

0050166208

Barwil Agencies AS

Barwil AS

92A: Ordering Institution

NDEAGB2L

NORDEA BANK FINLAND PLC LONDON BRAN LONDON

56A: Intermediary

BACMGB2LAXX

57A: Account with Institution

BAKHSDKHXXX

BANK OF KHARTOUM

KHARTOUM

59: Beneficiary Customer

/60486

MOHAMMED ABDALLA AHMED BAASHER

90: Details of Payment

INSTRUCTIONS FM BARWIL OSLO

71A: Details of Charges

OUR

User Notes:
SANCTIONS
TERMINO

Date/Time: 03APR08 / 10:38:02 Inward SWIFT Message

System Name: ***AQUA Intercept 2.0***
 Department: CUST QUERIES
 Message Type: MT199 Free Format Messages
 From: CHASUS33XXX

JPMORGAN CHASE BANK
 NEW YORK, NY

Priority: N

Queue: Archived Deleted

ISN: 7494293

Message received on on 26MAR08 at 6:00:35

FOINDEAGB2LCXXX0031006274}{2:01991644080325CHASUS33DXXX18922684080803252044

Transaction Reference

JPM1052525MAR08

Related Reference

971280008533

Narrative

PLEASE REFER TO YOUR SWIFT PAYMENT ORDER
 DATED 03/25/08 DATED 03/25/08 FOR USD 225,697.89
 VALUE 25MAR08 PLEASE BE ADVISED JPMORGAN CHASE
 BANK, N.A. IS REQUIRED UNDER THE U.S. TREASURY
 DEPT. ASSET CONTROL REGULATIONS TO HOLD THE USD
 225,697.89 DUE TO THE REFERENCE BANK OF
 KHARTOUM KHARTOUM
 THIS REFERENCE MAY BE ASSOCIATED WITH
 . SUDAN SANCTIONS. IT
 APPEARS ON A DESIGNATED BLOCK LIST PROVIDED BY
 THE U.S. TREASURY'S OFFICE OF FOREIGN ASSETS
 CONTROL. THE FUNDS ARE NOW IN A JPMORGAN CHASE
 BANK, N.A. BLOCKED ACCOUNT. WE CANNOT RELEASE THE
 FUNDS TO THE BENEFICIARY NOR CAN WE RETURN FUNDS
 BACK TO YOU UNLESS YOU OBTAIN A LICENSE FROM THE
 TREASURY OFFICE. IN ORDER TO OBTAIN THIS LICENSE
 YOU SHOULD APPLY TO THE FOLLOWING ADDRESS:
 OFFICE OF THE FOREIGN ASSETS CONTROL U.S.
 DEPARTMENT OF THE TREASURY 1500 PENNSYLVANIA
 AVENUE N.W. WASHINGTON, D.C. 20220 ATTENTION ADAM
 SZUBIN TELEPHONE NO. (202) 622-2500 HOPING THIS
 WILL ASSIST YOU IN THIS MATTER REGARDS,
 JPMORGAN CHASE BANK, N.A. JANET ARROYO OUR
 REFERENCE JPM1052525MAR08.

{5:{CHK:F87BF31C37E2}{MAC:00000000}} XZCK100N 1 DKUNPMAN0748054408032521
 59 FOINDEAGB2LCXXX0031006274 01991644080325CHAS
 JPM1052525MAR08

Notes: